

REMARKS

In the Office Action dated April 26, 2006, the Examiner withdrew the previous rejections over the *Cole et al.* reference. The examiner rejected claims 1, 8, 10, 11 and 14 under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,562,892 to *Eknoian et al.* Claims 1, 8, 10, 11, and 14 were also rejected under § 102(e) over United States Patent No. 6,683,129 to *Eknoian*. The remaining claims (2-6, 9, 12, and 13) were rejected under § 103 as being obvious over either the '892 *Eknoian et al.* patent, or the '129 *Eknoian* patent. Finally, all claims were rejected for obviousness-type double patenting over either '892 *Eknoian et al.* or '129 *Eknoian*.

A terminal disclaimer has been filed herewith for the above mentioned '892 *Eknoian et al.* and '129 *Eknoian* patents. Also include is a *Declaration* under 37 C.F.R. § 1.131 by *Steven Pauls, Sr.*, which shows that the invention was reduced to practice prior to the effective date of either the '892 or '192 reference; accordingly these references are not prior art. In any event, the obviousness rejections are improper because both cited references were subject to assignment to the same entity as the pending application at the time the invention was made. Thus, this case is believed to be in condition for allowance.

Turning first to the obviousness rejections, both the '892 and '129 patents are disqualified as prior art for obviousness purposes pursuant to § 103(c) which states:

(c)(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the instant case, each of the '892 and '129 patents were subject to assignment to National Starch and Chemical Investment Holding Company. The pending application was likewise

subject to assignment to National Starch at the time the invention was made. Accordingly, the § 103 rejections are improper and should be withdrawn.

Regarding the § 102(e) rejections, the Examiner rejected claims 1, 8, 10, 11 and 14 over United States Patent No. 6,562,892 and United States Patent No. 6,683,129. The '892 reference has an effective date of March 30, 2001—approximately 2.5 months before the filing date in the pending application. The '129 reference has an effective date of March 31, 2000.

Neither of the references cited by the Examiner is prior art in this case because they were not filed before the present invention was already reduced to practice. As stated in the relevant part of § 102(e), a person shall be entitled to a patent unless the invention was described in "(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent. . .".

The accompanying 1.131 *Declaration* of Steven Pauls, Sr. states at paragraphs 4, 5 and 6 that the invention was reduced to practice before the effective date of either the '892 reference or the '129 reference. These statements are supported by the accompanying redacted lab notebook pages, in which it is seen that salt-sensitive emulsion resins were added to nonwoven substrates for testing purposes. The emulsion polymers included both hydrophilic and non-hydrophilic monomers. The tests were conducted to determine the tensile strength of the bonded fabric after soaking in salt, and soaking in water. As shown on page 5 of that notebook, the fibrous substrates generally exhibited significantly higher tensile strengths in the salt solution. As stated in the *Declaration* at ¶ 4, the tests contain all of the limitations of, for example, independent claims 1 and 14 of the pending application. This evidence shows that the invention was reduced to practice prior to the effective dates of the cited references. Accordingly the § 102(e) and § 103 rejections should be withdrawn.

Numerous elements in the claims are not disclosed by either the '892 or '129 references. Specifically, claims 2-6, 9, 12, and 13 have elements such as fiber properties, add-on values, and basis weights that are not disclosed by the art of record. New claims 15 and 16 are also independently patentable over the '892 *Eknoian et al.* reference or the '129 *Eknoian* reference.

Claims 15 and 16 are directed to airlaid nonwoven webs having an emulsion binder, where the webs comprise wood pulp fibers. These elements are not at all disclosed by the references.

The double patenting rejections advanced by the Examiner, are believed resolved by the terminal disclaimer filed herewith.

The new claims are fully supported by original claim 1, and in the application as filed at page 3, lines 7-15; and at page 8, lines 6-7.

This response is believed timely filed. If any additional extensions or fees are necessary, please consider this a *Petition* therefore and charge any fees to Deposit Account No. 50-0935.

Respectfully submitted,



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